

**FUNERAL DIRECTORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
MARCH 27, 2001**

PRESENT: Roy Pfeffer, Peter Schils, Daniel Densow, Rick Unbehaun, and Bonnie Gift

EXCUSED: W. Robert Cress

STAFF PRESENT: Clete Hansen, Becky Fry, Jacquelynn Rothstein, Legal Counsel; Department staff and Division of Enforcement staff for portions of the meeting

GUESTS: Mark Paget, WFDA, until 12:42
Ashley Moore, FSA, until 12:20
Janet Porter, Ward Funeral Home, until 12:45
William C. Hurtley, Ward Funeral Home, until 12:45
Alfred H. Ward, Ward Funeral Home, until 12:45
Maureen Raskin, Smith Funeral Chapel, until 12:45
Barbara L. Schuler, WI Technical College System Bd, until 12:45
Mark Pichelmeyer, Allograft Resources of WI, until 12:45

CALL TO ORDER

The meeting was called to order at 9:39 a.m. by Roy Pfeffer, Chair. A quorum of five members was present.

AGENDA

MOTION: Peter Schils moved, seconded by Bonnie Gift, to adopt the agenda, as published. Motion carried unanimously.

MINUTES (1/09/01)

MOTION: Rick Unbehaun moved, seconded by Daniel Densow, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Acting Secretary William Conway

Acting Secretary Conway welcomed the Board and indicated that an announcement regarding the appointment of a new secretary would be made soon.

Mr. Conway indicated that the Budget Bill had been submitted.

Bureau Director's Report

Mr. Hansen reviewed the guest list, welcomed individuals and explained that funeral directors would be receiving continuing education credit for attending the meeting.

Board Roster

The Board received an updated roster. Noted.

2001 Meeting Dates

The Board received an updated copy of the 2001 meeting dates. Noted.

To-Pass Folder

The To-Pass Folder was circulated and duly noted.

To-Do List

Clete Hansen explained that issues that require follow-up are listed on the to-do list and will continue to be included in the agenda packets.

LEGISLATIVE UPDATE

Regulation of Crematories

Board's Cremation Draft

Mr. Hansen stated that a provision for the elimination of the Certificate of Good Standing was included in the Budget Bill.

Mr. Hansen informed the Board that Senator Peggy Rosenzweig is still interested in supporting the cremation bill. Roy Pfeffer, Bonnie Gift and Daniel Densow will send a copy of the cremation bill to their representatives for additional support.

Mr. Hansen indicated that a request for legislation had been sent and drafting should be moving forward.

The Board noted the articles from Harvey I. Lapin, regarding the legal aspects of cremation.

The Board discussed the inclusion of registration fees for a crematory authority in the request for legislation. Mr. Hansen indicated that the original fee for all credentials for the department are identical and that the drafter would include that fee for crematory authority in the proposed legislation.

Mr. Hansen suggested a teleconference meeting when the draft of the proposed legislation is returned.

2001 AB 156

The Board discussed the possible impact of the proposed legislation.

MOTION: Peter Schils moved, seconded by Daniel Densow, to support 2001 AB 156. The motion was withdrawn by Peter Schils.

The Board expressed their concern with the time limitations to request HIV testing and whether that request could be made orally or in writing.

Mark Paget indicated that a letter of concern was sent from Wisconsin Funeral Directors Association (WFDA) relating to the amount of time a body could be held to request HIV testing, which could cause a substantial delay in the embalming process.

MOTION: Peter Schils moved, to support 2001 AB 156 with the recommendation of a six-hour period of time to request HIV testing. The motion died for lack of a second.

Biennial Budget Bill

Mr. Hansen reviewed some of the provisions relating to the Board. He indicated a provision that pertains to the initial license fee, which would increase from \$44 to \$53, was included in the bill. The renewal fee for funeral director's would go down \$5 and the establishment fee would increase from \$47 to \$56.

Roy Pfeffer indicated that changing the maximum amount of trust funds that may be made irrevocable under a burial agreement from \$2500 to \$3300 is also included. It was noted that this would not take effect until January 1, 2003. The Wisconsin Funeral Directors Association is trying to get the Joint Finance Board to move up the effective date.

Mr. Hansen advised that there is a significant E-commerce provision in the Budget Bill that relates to the use of electronically transmitted signatures.

ADMINISTRATIVE RULES

Scope Statement

Mr. Hansen discussed the scope statement of proposed rules relating to funeral director licensing examination, continuing education and apprenticeships.

The Board discussed policy perspectives relating to the concerns of WFDA and the Board regarding continuing education, qualifications of instructors, the approval process, and the amount of continuing education hours that may be satisfied by attending in-house training and education.

A concern was raised relating to an individual receiving all continuing education credits through in-service training.

Ms. Rothstein recommended the Board consider amending rules in FD 4 to require in-service training to be available to all funeral directors.

Lydia Bridge addressed the course approval process. She indicated that there is currently nothing in the code relating to qualifications of instructors and suggested the requirement of being licensed a certain number of years and the submittal of a résumé. She will look at what other professions require and bring recommendations back to the Board along with an instructor application.

Ms. Rothstein suggested the establishment of a sub-committee to look at specifics and the Board review applications of instructors.

Daniel Densow recommended providing a cap on the number of hours of the required 15 hours an individual can obtain through in-service.

MOTION: Daniel Densow moved, seconded by Bonnie Gift, to set a 7-hour cap on the maximum number of hours received through in-service sponsored by a funeral establishment. Motion carried unanimously.

Correspondence

The Board reviewed Dr. Kevin Hatfield's February 20, 2001, memo regarding continuing education at the International Conference of Funeral Service Examining Boards' annual meeting

MOTION: Daniel Densow moved, seconded by Bonnie Gift, to send a letter to Dr. Kevin Hatfield, stating we do not have a fee for CEU approval and request the continued submission of applications for approval of courses. Motion carried unanimously.

EXAMINATION ISSUES

Nothing to discuss.

BOARD MEMBER ACTIVITY

Nothing to discuss.

FUNERAL ESTABLISHMENT APPLICATION

Mr. Hansen explained the need for a revised application to bring citations to various rules current with the FD rules.

The Board reviewed the funeral establishment application and suggested minor corrections.

MODEL PRENEED GUIDELINES, NATIONAL FUNERAL DIRECTORS ASSOCIATION

Jacquelynn Rothstein explained her February 23, 2001, memo regarding the analysis of the NFDA'S Model Consumer Protection Guidelines for Preneed Agreements compared to Wisconsin's existing provisions. Ms. Rothstein explained that an exact comparison was not possible due to the NFDA'S proposal being confined to burial agreements funded by the proceeds of a life insurance policy, whereas the same requirements do not exist for preneed arrangements that are funded by burial trusts. She indicated that statutory or rule changes would be necessary in order to require the same types of disclosures for burial trusts.

Mr. Pfeffer suggested Ms. Rothstein draft a list of recommendations for the Board to look at relating to strengthening the preneed trusting.

Mr. Pfeffer referred to Robert E Harden's January 3, 2001, letter to all state funeral licensing boards concerning the trusting policy. Mr. Pfeffer explained that the letter was in reference to two Florida organizations' funeral home trust funds being transferred to the firms for their immediate use before providing the funeral service.

Ms. Rothstein assured the Board that s. 445.125 (1) Stats., requires trust funds.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Cemetery Question from Mark Paget

Ms. Rothstein indicated that she had responded to Mark Paget's March 16, 2001, letter and clarified that the funeral home in question was licensed with a licensed funeral director operating the establishment.

Ms. Rothstein addressed the questions from Mark Paget's January 18, 2001, letter relating to pre-need sales.

Mr. Hansen clarified that any person who sells cemetery merchandise pre-need must be registered as a pre-need seller.

Mr. Paget questioned where a complaint should be directed if there is a problem with this type of situation. Ms. Rothstein indicated that a complaint should be addressed to the Division of Enforcement.

Allograft Resource, Inc., re: Formaldehyde

Mr. Mark Pichelmeyer addressed the Board regarding the proposed procedures of placing formaldehyde-based sealing compounds into the leg and arm cavities after procurement of the long bones and tissue and prior to the closure of the wound for donation purposes. The Board was under the opinion that this procedure fit under the definition of embalming which can only be done by a licensed embalmer or funeral director.

MOTION: Daniel Densow moved, seconded by Rick Unbehaun, to deny the request for permission to place formaldehyde-based sealing compounds into cavities. The Board felt this procedure fit under the definition of embalming which can only be done by a licensed embalmer or funeral director. Motion carried unanimously.

A suggestion was made for a possible legislative change in the future to address this issue.

No action was taken.

FinalJourney, re: Advertising

Noted.

Michele Voss, re: Beneficiary of a Life Insurance Policy

Clete informed the Board that language under item #8 of the Notice of Conversion of a Burial Trust to a Burial Agreement Funded by a Life Insurance Policy is a direct quotation of the statute.

Mark Krause, re: DNR Letters

Ms. Rothstein questioned the location of a citation relating to prohibiting spreading or burial of human ashes on state land. She will respond to the DNR information.

Roy Pfeffer addressed a letter he received dated February 14, 2001. Mark Paget indicated that all funeral directors were sent this letter and the WFDA contacted the FBI and the postal inspector regarding this issue.

Ms. Rothstein addressed the March 15, 2001, letter from Ed Patschke asking whether the Board must be notified when a burial trust is converted to a burial agreement funded by a life insurance policy. Ms. Rothstein indicated that notification was required and she had responded to the inquiry.

NEW BUSINESS

None.

PUBLIC COMMENTS

Alfred Ward questioned the language of the proposed cremation regulations stating the decedent's cremation shall not occur until after the date on which any viewings or services are to be held.

Daniel Densow explained the significance of this statement offering that a cremation would not take place prior to the family's intended time of the service in which the body may be present. He indicated that this has nothing to do with a memorial service that may occur in the future.

CORRESPONDENCE FROM THE INTERNATIONAL CONFERENCE OF FUNERAL SERVICE EXAMINING BOARDS

Roy Pfeffer indicated that Robert Cress would be attending the April 6, 2001, conference in Clearwater Beach, FL

The Board reviewed the February 13, 2001, letter and By-Laws received from Dalene Randall relating to the establishment of the Association of State Executives of Funeral Service Boards.

Clete Hansen expressed his opinion that the creation of an Association of State Executives of Funeral Service Boards was not necessary. The Board agreed with Mr. Hansen's opinion and Mr. Hansen will inform Mr. Cress of the Board's opinion to be relayed to the Association.

PRESENTATION OF PROPOSED STIPULATION BY PROSECUTOR

There were no stipulations to be presented.

The Board reviewed the March 20, 2001, memo from William Dusso to Becky Fry relating to noticing and handling stipulations and the role of the case advisor.

Ms. Rothstein advised that stipulations should be presented in open session and deliberated on in closed session.

MOTION: Bonnie Gift moved, seconded by Rick Unbehaun, to recommend that the stipulation includes a statement that the case advisor may be present during deliberations to answer questions but may not vote, and a statement indicating whether the case advisor supports the stipulation. Motion carried unanimously.

RECESS TO CLOSED SESSION

MOTION: Peter Schils moved, seconded by Daniel Densow, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), (f), and (g), Wis. Stats., to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status reports, case closings, monitoring issues, reinstatement requests, extension requests, examination challenges, deliberations on stipulations that may be signed after printing of the agenda, pending applications, and disciplinary proceedings. Motion carried unanimously by a roll call vote: Bonnie Gift-yes; Peter Schils-yes; Daniel Densow-yes; Rick Unbehaun-yes; Roy Pfeffer-yes.

Open Session recessed and Closed Session convened at 12:43 p.m.

CLOSED SESSION

The Board received a copy of the Case Status Report.

The Board deliberated on a case closing, a monitoring report, apprentice applications, and continuing education issues.

Alfred H Ward, William Hurtley, and Janet Porter appeared before the Board during closed session.

Maureen Raskin appeared before the Board during closed session.

RECONVENE IN OPEN SESSION

MOTION: Bonnie Gift moved, seconded by Rick Unbehaun, to reconvene in Open Session at 3:24 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

APPRENTICESHIP PERMIT

Maureen Raskin

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to table this issue until the next meeting and until additional information is received from the District Attorney relating to pending charges and a request be sent to Mr. Smith to appear before the Board by teleconference to answer questions or concerns the Board may have. Motion carried unanimously.

MOTION: Rick Unbehaun moved, seconded by Daniel Densow, to approve a transfer permit for James Burns and give no credit for the 1 year apprenticeship. Motion carried unanimously.

CASE CLOSING

MOTION: Daniel Densow moved, seconded by Bonnie Gift, to close case 00 FDR 015, for P1. Motion carried with Peter Schils, Case Advisor, abstaining.

MONITORING REPORT

MOTION: Rick Unbehaun moved, seconded by Peter Schils, to grant an extension of the order until July 1, 2001, and to issue an amended order to Bruni-Nygaard-Ward Funeral Home. Motion carried unanimously.

INSUFFICIENT PROOF OF COMPLETION OF CONTINUING EDUCATION

Jane Austin

The Board referred this item to DOE as a formal complaint

David R Edling

The Board referred this item to DOE as a formal complaint

SUCH OTHER ITEMS AS AUTHORIZED BY LAW

Mr. Schils informed the Board that he has declined reappointment to the Board.

ADJOURNMENT

MOTION: Peter Schils moved, seconded by Bonnie Gift, to adjourn the meeting at 3:30 p.m. Motion carried unanimously.

Next Meeting Date: May 8, 2001